

III. REMARKS

Status of the Claims

Claims 1, 5, 11-13, 17, 21, 25 are amended and new claim 26 is added. Claims 1, 4-6, and 10-26 are presented for further consideration.

Summary of the Office Action

Claims 1, 4-5, and 18 stand rejected under 35USC102(e) on the basis of the cited reference Gleich (applicant Brandenstein), German laid open patent application DE 33 23 858,. Claims 1, 4-5, 10-13, 17, 19-25 stand rejected under 35USC102(b) on the basis of the cited reference Hansen, et al, U.S. Patent No. 6,370,362. Claim 18 stands rejected under 35USC103(a) based on the cited reference Hansen in view of the disclosure of Gleich. Claims 14-16 stand rejected under 35USC103(a) based on the cited reference Hansen in view of the disclosure of the reference Joyce EP0802659. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

The Invention

The claims of the present application define the location of a display, a means for performing key functions comprising a first and a second part and an electro-acoustic transducer relative to a first end and a second end of a housing of a wireless communication device. More specifically, in its newly amended form claim 1 states that "said display, and said first and second parts of said means for performing key functions" are "located in the housing of the wireless communication device in fixed relation with respect to each other such that that the second part of said means for performing key functions is located between the first part of said means for performing key functions and the display, and the display is

located nearer the first end of the housing than the first part of said means for performing key functions and the electro-acoustic transducer". Claim 1 as newly amended makes it clear that the electro-acoustic transducer referred to in the claim is for converting an electric audio signal into an acoustic audio signal. In an embodiment of the invention, the electro-acoustic transducer is a loudspeaker, for example. Furthermore, claim 1 now defines the relative positions of the first and second parts of the means for performing key functions more precisely.

Discussion of the Cited References

The Applicant submits that neither of the cited prior art documents disclose a wireless communications device in which a display, a means for performing key functions having a first and a second part and an electro-acoustic transducer for converting an electric audio signal into an acoustic signal are arranged as defined in claim 1 of the present application.

Considering first German laid open patent application DE 33 23 858, there are six embodiments of a wireless telephone disclosed. A first embodiment is depicted in Figures 1 - 3, a second embodiment is shown in Figures 4 - 6, a third embodiment in Figure 7 - 9, a fourth embodiment in Figures 11 & 12, a fifth embodiment in Figures 13 to 15 and a sixth embodiment in Figures 16 - 18.

Turning to the first embodiment depicted by Figures 1 - 3, which is relied on specifically by the Examiner in his rejection of the claims, it is possible to describe the wireless telephone, shown in those figures, by applying the terms used in the claims of the present patent application.

Taking this approach, the wireless telephone of Figures 1 - 3 can be said to have a housing (1) with a first end and a

second end. Assuming the first end to be the end of the housing adjoining part 2, in Figure 1, and the second to be the end of the housing adjoining part 3 and, referring to the passage of text on page 14 of DE 33 23 858 between lines 3 and 11, it will be appreciated that using this designation of first and second ends, the microphone of the wireless telephone is located near the first end and the loudspeaker (electro-acoustic transducer in the terms of the present application) is located near the second end. Thus, referring to Figure 1, it will be seen that the display (7) of the wireless telephone "is located nearer the first end of the housing than the first part of said means for performing key functions" (keypad, 5) "and the electro-acoustic transducer" (loudspeaker, located in movable part 3). However, the second part of the means for performing key functions (calculator function keys 6 in Figure 1) is not located "between the first part of said means for performing key functions" (5 in Figure 1) "and the display".

If the designation of first and second ends is reversed, such that the first end is assumed to be end of the housing adjoining part 3 and the second end is assumed to be that adjoining part 2, it is no longer true that the "display is nearer the first end of the housing than the first part of said means for performing key functions and said electro-acoustic transducer". As before, with this designation of first and second ends, it is still true that the second part of the means for performing key functions is not located "between the first part of said means for performing key functions and the display".

Performing a similar analysis of the second embodiment of the wireless telephone shown in figures 4, 5 and 6 of DE 33 23 858, the third embodiment illustrated by figures 7, 8 & 9, and the fifth embodiment shown in Figures 13 to 15, the Applicant

finds no designation of first and second ends that would lead to an arrangement of display, means for performing key functions and electro-acoustic transducer that would be the same as that defined in claim 1.

An analysis of the fourth embodiment, shown in Figures 11 & 12 of DE 33 23 858, will now be presented. In this embodiment the housing of the wireless telephone comprises two parts, which are arranged to slide relative to each other. In the use (open) position, a keypad (5), a display (for a digital clock - see page 17 of DE 33 23 858, lines 3 to 8) and function keys (27) are arranged such that the function keys are located between the keypad and the display. In other words, in the terms of the present patent application "the second part of said means for performing key functions is located between the first part of said means for performing key functions and the display". However, it should be noted that in the fifth embodiment of DE 33 23 858, the "display and said first and second parts of said means for performing key functions" are not "located in the housing of the wireless communication device in fixed relation with respect to each other". On the contrary, in the fifth embodiment of DE 33 23 858, the keypad 5 is located in one half of the wireless telephone (22), while the display and loudspeaker are located in the other half (23) such that their relative position changes when the two halves of the wireless telephone are moved with respect to each other.

Furthermore, in the embodiment of Figures 11 & 12, the microphone is located in part 22 and the loudspeaker in part 23. If the end containing the microphone is designated the first end and that containing the loudspeaker, the second end, the display is nearer the second end than the first end i.e. the condition that "the display is located nearer the first end of the housing than the first part of said means for

performing key functions and said electro-acoustic transducer" required by claim 1 is not fulfilled. The same is true if the end containing the loudspeaker is designated the first end because then the electro-acoustic transducer is closer to the first end than the display.

The sixth and final embodiment described in DE 33 23 858 shows a two-part wireless telephone comprising an upper part (32) comprising a keypad (5) and a loudspeaker (see page 18, lines 10 to 15) and a lower part including what appear to be additional keys, a display (35) and a microphone (again, refer to page 18, lines 10 to 15). As illustrated in Figures 17 & 18, the upper and lower parts of the wireless telephone are arranged to be movable from a first (open) position to a second (closed) position. This means that the display and the first and second parts of the means for performing key functions are not "located in the housing of the wireless communication device in fixed relation with respect to each other" as required by claim 1 of the present application.

In conclusion, the Applicant submits that none of the embodiments described and illustrated in DE 33 23 858 disclose all of the features required by the claims of the present application and therefore DE 33 23 858 does not support the rejection by the Examiner on the basis of anticipation.

The second reference cited by the Examiner is the reference Hansen, US Patent US 6,370,362. Hansen describes a communication unit with a housing part provided with means for entering information and a slide assembly. The housing part is provided with a set of tracks along which the slide assembly is slideable relative to the housing part. The slide assembly includes a cover part and a set of sliding rails extending from the cover part in the sliding direction for being received in said set of tracks on the housing part (see

abstract). Referring to Figure 2 of Hansen, it can be seen that the cover part (5) carries a microphone 46 (see e.g. Figure 4 for details) and that openings for sound generated by an earpiece are provided in the front cover (2) of the device near one end of the cover. A display assembly (1) is also located in connection with the front cover, as is a keypad (7, 8). If the arrangement of these elements of the communication device is analysed in a manner analogous to that applied when considering the wireless telephone disclosed in DE 33 23 858, the following conclusions can be reached.

Firstly, if it is assumed that the microphone (43) end of the communication unit of Figure 2 is the first end in the terms of the claims, it will be appreciated that the display is not "located nearer the first end of the housing than the first part of said means for performing key functions" (e.g. 7). If, on the other hand, it is assumed that end of the communication unit opposite to the microphone is the first end, the display is not located nearer the first end of the housing than the electro-acoustic transducer (the earpiece of the communication unit, located under the openings provided in front cover 2). For these reasons, the Applicant is of the opinion that US 6,370,362 also does not support the Examiner's rejection based on anticipation.

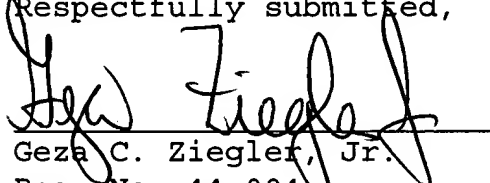
The Examiner relies on the references Geich and Hansen as the basis for supporting rejections relating to obviousness. In view of the above analysis, it is observed that significant elements of the claims are missing from the teachings of the cited references. These deficiencies in Geich and Hansen are not remedied by combining the teachings of the cited reference Joyce. It is well settled that one of the requirements of prima facie obviousness is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicant submits that the teachings of the

cited references neither individually nor in combination teach or suggest all of the claim limitations according to the claims under consideration.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$980.00 is enclosed for a three month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


Geza C. Ziegler, Jr.
Reg. No. 44,004


8 November 2004
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 11/8/04

Signature: 
Person Making Deposit